

1987—Pub. L. 100-140 inserted “302c,” after “302b,” wherever appearing.

1980—Subsec. (a). Pub. L. 96-513, § 506(6)(A), struck out reference to sections 302c and 313 of this title.

Subsec. (b). Pub. L. 96-513, § 506(6)(B), (C), struck out reference to section 302c of this title and inserted reference to separation pay.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-140 effective Oct. 26, 1987, and applicable to pay periods beginning on or after such date, see section 2(c) of Pub. L. 100-140, set out as an Effective Date note under section 302c of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 302a, 302b of this title.

§ 303b. Waiver of board certification requirements

(a) **CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.**—A member of the armed forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of this title before the end of the period established for the member in subsection (c) shall be paid special pay under the applicable section for active duty performed during the period beginning on the date on which the member was assigned to duty in support of a contingency operation and ending on the date of that certification or recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of that duty.

(b) **ELIGIBLE MEMBERS DESCRIBED.**—A member of the armed forces referred to in subsection (a) is a member who—

- (1) is a medical or dental officer or a nonphysician health care provider;
- (2) has completed any required residency training; and
- (3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of this title during a duty assignment in support of a contingency operation.

(c) **PERIOD FOR CERTIFICATION.**—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the armed forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date on which the member is released from the duty to which the member was assigned in support of a contingency operation.

(Added Pub. L. 102-190, div. A, title VI, § 635(a), Dec. 5, 1991, 105 Stat. 1382.)

OPERATION DESERT STORM DUTY ASSIGNMENTS

Pub. L. 102-25, title III, § 305, Apr. 6, 1991, 105 Stat. 82, provided that:

“(a) **CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.**—A member of the Armed Forces de-

scribed in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of title 37, United States Code, before the end of the period established for the member in subsection (c) shall be paid special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title (whichever applies) for active duty performed after November 5, 1990, and before the date of that certification and recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

“(b) **ELIGIBLE MEMBERS DESCRIBED.**—A member of the Armed Forces referred to in subsection (a) is a member who—

- “(1) is a medical or dental officer or a nonphysician health care provider;
- “(2) has completed any required residency training; and

“(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title during the duty assignment in connection with Operation Desert Storm.

“(c) **PERIOD FOR CERTIFICATION.**—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.”

§ 304. Special pay: diving duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is entitled to basic pay is entitled to special pay, in the amount set forth in subsection (b), for periods during which the member—

- (1) is assigned by orders to the duty of diving;
- (2) is required to maintain proficiency as a diver by frequent and regular dives; and
- (3) actually performs diving duty.

(b) Special pay payable under subsection (a) shall be paid at a rate of not more than \$200 a month, in the case of an officer, and at a rate of not more than \$300 a month, in the case of an enlisted member.

(c) A member may be paid special pay under this section and incentive pay under section 301 of this title for the same period of service only if the member is assigned by orders to a hazardous duty described in section 301(a) of this title in addition to diving duty. However, if a member is paid special pay under this section, the member is not entitled to more than one payment of incentive pay under section 301 of this title.

(d)(1) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to $\frac{1}{30}$ of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under sec-

tion 204 of this title. Such member is entitled to the increase—

(A) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday; or

(B) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

(2) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(e) In time of war, the President may suspend the payment of diving duty pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 97-60, title I, § 115, Oct. 14, 1981, 95 Stat. 995; Pub. L. 100-180, div. A, title VI, § 624(a), Dec. 4, 1987, 101 Stat. 1103; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
304(a)	37:236(a), (b).	Oct. 12, 1949, ch. 681, § 205, 63 Stat. 810; Mar. 31, 1955, ch. 20, § 2(8)-(10), 69 Stat. 21; Aug. 17, 1961, Pub. L. 87-145, § 1, 75 Stat. 382.
304(b)	37:236(c).	

In subsection (a), the last sentence is substituted for section 236(b) of existing title 37. The word “competent” is omitted as surplusage.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-25 struck out “of this section” after “subsection (b)”.

Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1987—Subsecs. (d), (e). Pub. L. 100-180 added subsec. (d) and redesignated former subsec. (d) as (e).

1981—Pub. L. 97-60 revised provisions of subsec. (a) into new subsecs. (a), (b), and (c), redesignated subsec. (b) as (d), and, in provisions of subsec. (a) as revised, added to enumeration of conditions attached to entitlement to special pay requirement that the member maintain proficiency as a diver by frequent and regular dives, substituted a rate of \$200 a month for officers and \$300 a month for enlisted men for former rate of \$110 a month for all members, and inserted provisions authorizing payment of both special pay under this section and incentive pay under section 301 of this title in specified circumstances.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 624(b) of Pub. L. 100-180 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the fourth calendar month following the month in which this Act is enacted [Dec. 1987] and shall apply only with respect to diving duty performed on or after that date.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

§ 305. Special pay: hardship duty location pay

(a) SPECIAL PAY AUTHORIZED.—A member of a uniformed service who is entitled to basic pay may be paid special pay under this section at a monthly rate not to exceed \$300 while the member is on duty at a location in the United States or outside the United States designated by the

Secretary of Defense as a hardship duty location.

(b) EXCEPTION FOR CERTAIN MEMBERS SERVING IN CERTAIN LOCATIONS.—Appropriations of the Department of Defense may not be paid, as hardship duty location pay under subsection (a), to a member of a uniformed service who is a resident of a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country, as the case may be.

(c) EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—A member receiving special pay under section 305a of this title may not be paid hardship duty location pay under subsection (a) for the same period of service.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the provision of hardship duty location pay under subsection (a), including the specific monthly rates at which the special pay will be available.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88-132, § 12(a), Oct. 2, 1963, 77 Stat. 217; Pub. L. 90-623, § 3(4), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 95-485, title VIII, § 804(b)(1), Oct. 20, 1978, 92 Stat. 1620; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-85, div. A, title VI, § 619(a)-(c)(1), Nov. 18, 1997, 111 Stat. 1789, 1790.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
305(a)	37:237.	Oct. 12, 1949, ch. 681, § 206, 63 Stat. 811; May 20, 1958, Pub. L. 85-422, § 1(7), 72 Stat. 125.
305(b)	37:237a.	June 30, 1954, ch. 432, § 729, 68 Stat. 355.

In subsection (a), the words “Except as provided by subsection (b) of this section” are inserted for clarity. The words “is also . . . entitled” are substituted for the words “shall, in addition thereto . . . be entitled”. The words “any place outside the United States, or in Alaska or Hawaii” are substituted for the words “beyond the continental limits of the United States or in Alaska”, since, under the source statute, Hawaii was beyond the continental limits of the United States, and the United States, as defined in section 101(1) of this revised title, would otherwise include Alaska and Hawaii. This interpretation conforms to the opinion of the Comptroller General, B-138956, April 20, 1959 (38 Comp. Gen. 710).

In subsection (b), the words “Appropriation of” are substituted for the words “of the funds appropriated to”. The words “may not be paid” are substituted for the words “no part . . . shall be available for the payment”. The words “member of a uniformed service” are substituted for the words “person in the military service” to conform to subsection (a). The words “Puerto Rico” are inserted for clarity, since the source statute was applicable to that place. The words “Virgin Islands” are inserted, since that unincorporated territory is not covered by the word “possession”. The word “Territory” is omitted as obsolete.

AMENDMENTS

1997—Pub. L. 105-85, § 619(c)(1), substituted “hardship duty location pay” for “while on duty at certain places” in section catchline.

Subsec. (a). Pub. L. 105-85, § 619(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as provided by subsections (b) and (c),